

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 26, 2007
Date

Honorable David Dewhurst
President of the Senate


Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on House Bill 3732 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



Senator Kip Averitt

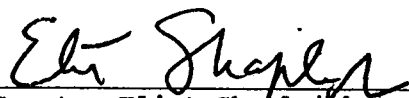


Senator Robert Nichols

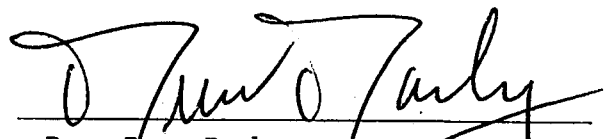


Senator Jan Nelson

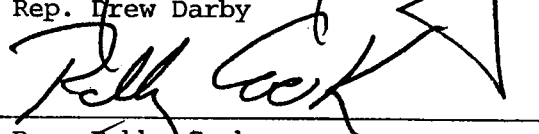
Senator Kim Brimer



Senator Eliot Shafer
On the part of the Senate




Rep. Drew Darby




Rep. Robby Cook



Rep. Joe Deshotel



Rep. Burt Solomons



Rep. Richard L. Hardcastle
On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 3732

A BILL TO BE ENTITLED

AN ACT

relating to the implementation of advanced clean energy projects
and other environmentally protective projects in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 447, Government Code, is amended by
adding Section 447.013 to read as follows:

Sec. 447.013. ADVANCED CLEAN ENERGY PROJECT GRANT AND LOAN
PROGRAM. (a) In this section:

(1) "Account" means the advanced clean energy project
account established under this section.

(2) "Advanced clean energy project" has the meaning
assigned by Section 382.003, Health and Safety Code.

(3) "Program" means the advanced clean energy project
grant and loan program established under this section.

(b) The advanced clean energy project grant and loan program
is established to encourage the development of advanced clean
energy projects in an environmentally protective manner. The
program is administered by the State Energy Conservation Office.

(c) The advanced clean energy project account is an account
in the general revenue fund.

(d) The account consists of:

(1) a sub-account in the account that consists of the
proceeds of bonds issued under Subsection (j);

(2) revenues allocated to the account under Section

1 182.122, Tax Code;

2 (3) any amount appropriated by the legislature for the
3 account;

4 (4) gifts, grants, and other donations received for
5 the account; and

6 (5) interest earned on the investment of money in the
7 account.

8 (e) Money in the account may be appropriated only to the
9 State Energy Conservation Office to award grants or to make or
10 guarantee loans under this section. The total amount of grants that
11 may be awarded under this section in any state fiscal biennium from
12 revenues described by Subsection (d)(2) may not exceed \$20 million.
13 The total amount of loans that may be made or guaranteed under this
14 section in any state fiscal biennium from revenues described by
15 Subsection (d)(2) may not exceed \$10 million.

16 (f) Before awarding a grant or making a loan under this
17 section, the State Energy Conservation Office shall enter into a
18 written agreement with the entity to which the grant is to be
19 awarded or the loan is to be made. The agreement may specify that
20 if, as of a date specified by the agreement, the entity has not used
21 the grant or loan for the purposes for which the grant or loan was
22 intended, the entity shall repay the amount of the grant or the
23 amount of the loan and any accrued interest, as applicable, under
24 terms specified by the agreement.

25 (g) Under the program, the State Energy Conservation Office
26 may award a grant to the managing entity of an advanced clean energy
27 project in an amount not to exceed 50 percent of the total amount

1 invested in the project by private industry sources. The managing
2 entity of the project must provide any information considered
3 necessary by the State Energy Conservation Office to determine
4 whether the entity qualifies for the grant.

5 (h) Under the program, the State Energy Conservation Office
6 may make or guarantee a loan to the managing entity of an advanced
7 clean energy project in this state. If the loan or guarantee is to
8 be funded by the proceeds of bonds issued under Subsection (j), the
9 project must qualify for the loan or guarantee under Section 49-q,
10 Article III, Texas Constitution.

11 (i) A recipient of a grant or loan under this section is
12 encouraged to purchase goods and services from small businesses and
13 historically underutilized businesses, as those terms are defined
14 by Section 481.191, Government Code.

15 (j) The Texas Public Finance Authority shall issue general
16 obligation bonds in accordance with and subject to Chapter 1232,
17 Government Code, for the purposes authorized by Section 49-q,
18 Article III, Texas Constitution.

19 SECTION 2. Section 382.003, Health and Safety Code, is
20 amended by adding Subdivisions (1-a), (3-a), (7-a), and (11-a) to
21 read as follows:

22 (1-a) "Advanced clean energy project" means a project
23 for which an application for a permit under this chapter is received
24 by the commission on or after January 1, 2008, and before January 1,
25 2020, and that:

26 (A) involves the use of coal, biomass, petroleum
27 coke, solid waste, or fuel cells using hydrogen derived from such

1 fuels, in the generation of electricity, or the creation of liquid
2 fuels outside of the existing fuel production infrastructure while
3 co-generating electricity;

4 (B) is capable of achieving on an annual basis a
5 99 percent or greater reduction of sulfur dioxide emissions, a 95
6 percent or greater reduction of mercury emissions, and an emission
7 rate for nitrogen oxides of 0.05 pounds or less per million British
8 thermal units; and

9 (C) renders carbon dioxide capable of capture,
10 sequestration, or abatement if any carbon dioxide is produced by
11 the project.

12 (3-a) "Coal" has the meaning assigned by Section
13 134.004, Natural Resources Code.

14 (7-a) "Federally qualified clean coal technology"
15 means a technology or process, including a technology or process
16 applied at the precombustion, combustion, or postcombustion stage,
17 for use at a new or existing facility that will achieve on an annual
18 basis a 97 percent or greater reduction of sulfur dioxide
19 emissions, an emission rate for nitrogen oxides of 0.08 pounds or
20 less per million British thermal units, and significant reductions
21 in mercury emissions associated with the use of coal in the
22 generation of electricity, process steam, or industrial products,
23 including the creation of liquid fuels, hydrogen for fuel cells,
24 and other coproducts. The technology used must comply with
25 applicable federal law regarding mercury emissions and must render
26 carbon dioxide capable of capture, sequestration, or abatement.
27 Federally qualified clean coal technology includes atmospheric or

1 pressurized fluidized bed combustion technology, integrated
2 gasification combined cycle technology, methanation technology,
3 magnetohydrodynamic technology, direct and indirect coal-fired
4 turbines, undiluted high-flame temperature oxygen combustion
5 technology that excludes air, and integrated gasification fuel
6 cells.

7 (11-a) "Solid waste" has the meaning assigned by
8 Section 361.003.

9 SECTION 3. Subchapter C, Chapter 382, Health and Safety
10 Code, is amended by adding Sections 382.0566 and 382.0567 to read as
11 follows:

12 Sec. 382.0566. ADVANCED CLEAN ENERGY PROJECT PERMITTING
13 PROCEDURE. (a) As authorized by federal law, not later than nine
14 months after the executive director declares an application for a
15 permit under this chapter for an advanced clean energy project to be
16 administratively complete, the executive director shall complete
17 its technical review of the application.

18 (b) The commission shall issue a final order issuing or
19 denying the permit not later than nine months after the executive
20 director declares the application technically complete. The
21 commission may extend the deadline set out in this subsection up to
22 three months if it determines that the number of complex pending
23 applications for permits under this chapter will prevent the
24 commission from meeting the deadline imposed by this subsection
25 without creating an extraordinary burden on the resources of the
26 commission.

27 (c) The permit process authorized by this section is subject

1 to the requirements relating to a contested case hearing under this
2 chapter, Chapter 5, Water Code, or Subchapters C-G, Chapter 2001,
3 Government Code, as applicable.

4 (d) The commission shall adopt rules to implement this
5 section.

6 Sec. 382.0567. PROOF THAT TECHNOLOGY IS COMMERCIALY
7 FEASIBLE NOT REQUIRED; CONSIDERATION OF TECHNOLOGY TO BE ACHIEVABLE
8 FOR CERTAIN PURPOSES PROHIBITED. (a) An applicant for a permit
9 under this chapter for a project in connection with which advanced
10 clean energy technology, federally qualified clean coal
11 technology, or another technology is proposed to be used is not
12 required to prove, as part of an analysis of whether the project
13 will use the best available control technology or reduce emissions
14 to the lowest achievable rate, that the technology proposed to be
15 used has been demonstrated to be feasible in a commercial
16 operation.

17 (b) The commission may not consider any technology or level
18 of emission reduction to be achievable for purposes of a best
19 available control technology analysis or lowest achievable
20 emission rate analysis conducted by the commission under another
21 provision of this chapter solely because the technology is used or
22 the emission reduction is achieved by a facility receiving an
23 incentive as an advanced clean energy project.

24 SECTION 4. Section 11.31, Tax Code, is amended by adding
25 Subsections (k), (l), and (m) to read as follows:

26 (k) The Texas Commission on Environmental Quality shall
27 adopt rules establishing a nonexclusive list of facilities,

1 devices, or methods for the control of air, water, or land
2 pollution, which must include:

3 (1) coal cleaning or refining facilities;
4 (2) atmospheric or pressurized and bubbling or
5 circulating fluidized bed combustion systems and gasification
6 fluidized bed combustion combined cycle systems;

7 (3) ultra-supercritical pulverized coal boilers;
8 (4) flue gas recirculation components;
9 (5) syngas purification systems and gas-cleanup
10 units;

11 (6) enhanced heat recovery systems;
12 (7) exhaust heat recovery boilers;
13 (8) heat recovery steam generators;
14 (9) superheaters and evaporators;
15 (10) enhanced steam turbine systems;
16 (11) methanation;
17 (12) coal combustion or gasification byproduct and
18 coproduct handling, storage, or treatment facilities;

19 (13) biomass cofiring storage, distribution, and
20 firing systems;

21 (14) coal cleaning or drying processes, such as coal
22 drying/moisture reduction, air jigging, precombustion
23 decarbonization, and coal flow balancing technology;

24 (15) oxy-fuel combustion technology, amine or chilled
25 ammonia scrubbing, fuel or emission conversion through the use of
26 catalysts, enhanced scrubbing technology, modified combustion
27 technology such as chemical looping, and cryogenic technology;

1 (16) if the United States Environmental Protection
2 Agency adopts a final rule or regulation regulating carbon dioxide
3 as a pollutant, property that is used, constructed, acquired, or
4 installed wholly or partly to capture carbon dioxide from an
5 anthropogenic source in this state that is geologically sequestered
6 in this state;

7 (17) fuel cells generating electricity using hydrogen
8 derived from coal, biomass, petroleum coke, or solid waste; and

9 (18) any other equipment designed to prevent, capture,
10 abate, or monitor nitrogen oxides, volatile organic compounds,
11 particulate matter, mercury, carbon monoxide, or any criteria
12 pollutant.

13 (1) The Texas Commission on Environmental Quality by rule
14 shall update the list adopted under Subsection (k) at least once
15 every three years. An item may be removed from the list if the
16 commission finds compelling evidence to support the conclusion that
17 the item does not provide pollution control benefits.

18 (m) Notwithstanding the other provisions of this section,
19 if the facility, device, or method for the control of air, water, or
20 land pollution described in an application for an exemption under
21 this section is a facility, device, or method included on the list
22 adopted under Subsection (k), the executive director of the Texas
23 Commission on Environmental Quality, not later than the 30th day
24 after the date of receipt of the information required by
25 Subsections (c)(2) and (3) and without regard to whether the
26 information required by Subsection (c)(1) has been submitted, shall
27 determine that the facility, device, or method described in the

1 application is used wholly or partly as a facility, device, or
2 method for the control of air, water, or land pollution and shall
3 take the actions that are required by Subsection (d) in the event
4 such a determination is made.

5 SECTION 5. Section 26.045, Tax Code, is amended to read as
6 follows:

7 Sec. 26.045. ROLLBACK RELIEF FOR POLLUTION CONTROL
8 REQUIREMENTS. (a) The rollback tax rate for a political
9 subdivision of this state is increased by the rate that, if applied
10 to the total current value, would impose an amount of taxes equal to
11 the amount the political subdivision will spend out of its
12 maintenance and operation funds under Section 26.012(16) [~~Tax~~
13 ~~Code~~], to pay for a facility, device, or method for the control of
14 air, water, or land pollution that is necessary to meet the
15 requirements of a permit issued by the Texas [~~Natural Resource~~
16 ~~Conservation~~] Commission on Environmental Quality.

17 (b) In this section, "facility, device, or method for
18 control of air, water, or land pollution" means any land,
19 structure, building, installation, excavation, machinery,
20 equipment, or device, and any attachment or addition to or
21 reconstruction, replacement, or improvement of that property, that
22 is used, constructed, acquired, or installed wholly or partly to
23 meet or exceed rules or regulations adopted by any environmental
24 protection agency of the United States or this state for the
25 prevention, monitoring, control, or reduction of air, water, or
26 land pollution.

27 (c) To receive an adjustment to the rollback tax rate under

1 this section, a political subdivision shall present information to
2 the executive director of the Texas [~~Natural Resource Conservation~~]
3 Commission on Environmental Quality in a permit application or in a
4 request for any exemption from a permit that would otherwise be
5 required detailing:

6 (1) the anticipated environmental benefits from the
7 installation of the facility, device, or method for the control of
8 air, water, or land pollution;

9 (2) the estimated cost of the pollution control
10 facility, device, or method; and

11 (3) the purpose of the installation of the facility,
12 device, or method, and the proportion of the installation that is
13 pollution control property.

14 (d) Following submission of the information required by
15 Subsection (c), the executive director of the Texas [~~Natural~~
16 ~~Resource Conservation~~] Commission on Environmental Quality shall
17 determine whether [~~if~~] the facility, device, or method is used
18 wholly or partly as a facility, device, or method for the control of
19 air, water, or land pollution. If the executive director determines
20 that the facility, device, or method is used wholly or partly to
21 control pollution, the director shall issue a letter to the
22 political subdivision stating that determination and the portion of
23 the cost of the installation that is pollution control property.

24 (e) The Texas [~~Natural Resource Conservation~~] Commission on
25 Environmental Quality may charge a political subdivision seeking a
26 determination that property is pollution control property an
27 additional fee not to exceed its administrative costs for

1 processing the information, making the determination, and issuing
2 the letter required by this section. The commission may adopt rules
3 to implement this section.

4 (f) The Texas Commission on Environmental Quality shall
5 adopt rules establishing a nonexclusive list of facilities,
6 devices, or methods for the control of air, water, or land
7 pollution, which must include:

8 (1) coal cleaning or refining facilities;

9 (2) atmospheric or pressurized and bubbling or
10 circulating fluidized bed combustion systems and gasification
11 fluidized bed combustion combined cycle systems;

12 (3) ultra-supercritical pulverized coal boilers;

13 (4) flue gas recirculation components;

14 (5) syngas purification systems and gas-cleanup
15 units;

16 (6) enhanced heat recovery systems;

17 (7) exhaust heat recovery boilers;

18 (8) heat recovery steam generators;

19 (9) superheaters and evaporators;

20 (10) enhanced steam turbine systems;

21 (11) methanation;

22 (12) coal combustion or gasification byproduct and
23 coproduct handling, storage, or treatment facilities;

24 (13) biomass cofiring storage, distribution, and
25 firing systems;

26 (14) coal cleaning or drying processes such as coal
27 drying/moisture reduction, air jigging, precombustion

1 decarbonization, and coal flow balancing technology;

2 (15) oxy-fuel combustion technology, amine or chilled
3 ammonia scrubbing, fuel or emission conversion through the use of
4 catalysts, enhanced scrubbing technology, modified combustion
5 technology such as chemical looping, and cryogenic technology;

6 (16) if the United States Environmental Protection
7 Agency adopts a final rule or regulation regulating carbon dioxide
8 as a pollutant, property that is used, constructed, acquired, or
9 installed wholly or partly to capture carbon dioxide from an
10 anthropogenic source in this state that is geologically sequestered
11 in this state;

12 (17) fuel cells generating electricity using hydrogen
13 derived from coal, biomass, petroleum coke, or solid waste; and

14 (18) any other equipment designed to prevent, capture,
15 abate, or monitor nitrogen oxides, volatile organic compounds,
16 particulate matter, mercury, carbon monoxide, or any criteria
17 pollutant.

18 (g) The Texas Commission on Environmental Quality by rule
19 shall update the list adopted under Subsection (f) at least once
20 every three years. An item may be removed from the list if the
21 commission finds compelling evidence to support the conclusion that
22 the item does not render pollution control benefits.

23 (h) Notwithstanding the other provisions of this section,
24 if the facility, device, or method for the control of air, water, or
25 land pollution described in a permit application or in a request for
26 any exemption from a permit that would otherwise be required is a
27 facility, device, or method included on the list adopted under

Subsection (f), the executive director of the Texas Commission on Environmental Quality, not later than the 30th day after the date of receipt of the information required by Subsections (c)(2) and (3) and without regard to whether the information required by Subsection (c)(1) has been submitted, shall determine that the facility, device, or method described in the permit application or in the request for an exemption from a permit that would otherwise be required is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution and shall take the action that is required by Subsection (d) in the event such a determination is made.

(i) A political subdivision of the state seeking an adjustment in its rollback tax rate under this section shall provide to its tax assessor a copy of the letter issued by the executive director of the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality under Subsection (d). The tax assessor shall accept the copy of the letter from the executive director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property and shall adjust the rollback tax rate for the political subdivision as provided for by Subsection (a).

SECTION 6. Section 182.022, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding any other provision of this chapter, a tax under this chapter may not be imposed on gross receipts from the sale of electricity generated by an advanced clean energy project, as defined by Section 382.003, Health and Safety Code.

SECTION 7. Section 182.122, Tax Code, is amended to read as follows:

Sec. 182.122. ALLOCATION OF TAX. (a) Revenues collected under this chapter are allocated:

(1) one-fourth to the foundation school fund; and

(2) three-fourths to the general revenue fund.

(b) The comptroller shall transfer to the advanced clean energy project account the first \$30 million of the revenues collected under this chapter that are allocated to the general revenue fund under Subsection (a)(2) in any state fiscal biennium.

SECTION 8. Effective September 1, 2020, Section 182.122, Tax Code, is amended to read as follows:

Sec. 182.122. ALLOCATION OF TAX. Revenues collected under this chapter are allocated:

(1) one-fourth to the foundation school fund; and

(2) three-fourths to the general revenue fund.

SECTION 9. Subchapter B, Chapter 202, Tax Code, is amended by adding Section 202.0545 to read as follows:

Sec. 202.0545. TAX EXEMPTION FOR ENHANCED RECOVERY PROJECTS USING ANTHROPOGENIC CARBON DIOXIDE. (a) Subject to the limitations provided by this section, until the later of the seventh anniversary of the date that the comptroller first approves an application for a tax rate reduction under this section or the effective date of a final rule adopted by the United States Environmental Protection Agency regulating carbon dioxide as a pollutant, the producer of oil recovered through an enhanced oil recovery project that qualifies under Section 202.054 for the

1 recovered oil tax rate provided by Section 202.052(b) is entitled
2 to an additional 50 percent reduction in that tax rate if in the
3 recovery of the oil the enhanced oil recovery project uses carbon
4 dioxide that:

5 (1) is captured from an anthropogenic source in this
6 state;

7 (2) would otherwise be released into the atmosphere as
8 industrial emissions;

9 (3) is measurable at the source of capture; and

10 (4) is sequestered in one or more geological
11 formations in this state following the enhanced oil recovery
12 process.

13 (b) In the event that a portion of the carbon dioxide used in
14 the enhanced oil recovery project is anthropogenic carbon dioxide
15 that satisfies the criteria of Subsection (a) and a portion of the
16 carbon dioxide used in the project fails to satisfy the criteria of
17 Subsection (a) because it is not anthropogenic, the tax reduction
18 provided by Subsection (a) shall be reduced to reflect the
19 proportion of the carbon dioxide used in the project that satisfies
20 the criteria of Subsection (a).

21 (c) To qualify for the tax rate reduction under this
22 section, the operator must:

23 (1) apply to the comptroller for the reduction and
24 include with the application any information and documentation that
25 the comptroller may require; and

26 (2) apply for a certification from:

27 (A) the Railroad Commission of Texas, if carbon

1 dioxide used in the project is to be sequestered in an oil or
2 natural gas reservoir;

3 (B) the Texas Commission on Environmental
4 Quality, if carbon dioxide used in the project is to be sequestered
5 in a geological formation other than an oil or natural gas
6 reservoir; or

7 (C) both the Railroad Commission of Texas and the
8 Texas Commission on Environmental Quality if both Paragraphs (A)
9 and (B) apply.

10 (d) An agency to which an operator applies for a
11 certification under Subsection (c)(2) may issue the certification
12 only if the agency finds that, based on substantial evidence, there
13 is a reasonable expectation that:

14 (1) the operator's planned sequestration program will
15 ensure that at least 99 percent of the carbon dioxide sequestered as
16 required by Subsection (a)(4) will remain sequestered for at least
17 1,000 years; and

18 (2) the operator's planned sequestration program will
19 include appropriately designed monitoring and verification
20 measures that will be employed for a period sufficient to
21 demonstrate whether the sequestration program is performing as
22 expected.

23 (e) The tax rate reduction does not apply if the operator's
24 sequestration program or the operator's monitoring and
25 verification measures differ substantially from the planned
26 program described by Subsection (d), and the operator shall refund
27 the difference between the amount of the tax paid under this section

1 and the amount that would have been imposed in the absence of this
2 section.

3 (f) The comptroller shall approve the application if the
4 operator submits the certification or certifications required by
5 Subsection (c)(2) and if the comptroller determines that the oil is
6 otherwise eligible under this section.

7 (g) If, before the comptroller approves an application for
8 the tax rate reduction under this section, the tax imposed by this
9 chapter is paid at the rate provided by Section 202.052(a) or (b) on
10 oil that qualifies under this section, the producer or producers of
11 the oil are entitled to a credit against taxes imposed by this
12 chapter in an amount equal to the difference between the tax paid on
13 the oil and the tax due on the oil after the rate reduction under
14 this section is applied. The credit is allowed to each producer
15 according to the producer's proportionate share in the oil. To
16 receive a credit, one or more of the producers of the oil must apply
17 to the comptroller for the credit not later than the first
18 anniversary of the date the oil is produced.

19 (h) The comptroller, the Railroad Commission of Texas, and
20 the Texas Commission on Environmental Quality may adopt rules and
21 establish procedures to implement and administer this section.

22 SECTION 10. Section 313.024(b), Tax Code, as effective
23 January 1, 2008, is amended to read as follows:

24 (b) To be eligible for a limitation on appraised value under
25 this subchapter, the entity must use the property in connection
26 with:

27 (1) manufacturing;

- 1 (2) research and development;
- 2 (3) a clean coal project, as defined by Section 5.001,
- 3 Water Code;
- 4 (4) an advanced clean energy [~~a gasification~~] project,
- 5 as defined by Section 382.003, Health and Safety Code [~~for a coal~~
- 6 ~~and biomass mixture~~]; or
- 7 (5) renewable energy electric generation.

8 SECTION 11. (a) Not later than September 1, 2012, and

9 September 1, 2016, the Texas Commission on Environmental Quality

10 and the State Energy Conservation Office shall issue a joint report

11 to the legislature providing a status update on the implementation

12 of the advanced clean energy program and an assessment of whether

13 the emissions profile set out in Section 382.003(1-a)(B), Health

14 and Safety Code, as added by this Act, should be adjusted to

15 increase or decrease elements of the emissions profile.

16 (b) Factors to be considered in the assessment of the

17 emissions profile shall include:

18 (1) the technical and economic feasibility of meeting

19 all of the elements of the emissions profile in a commercially

20 viable project, as documented by the United States Department of

21 Energy;

22 (2) the technical and economic feasibility of projects

23 to meet all of the elements of the emissions profile and still use a

24 diverse range of fuels, including lignite; and

25 (3) the adequacy of the incentives provided by this

26 Act to continue to attract investment in and federal funding for

27 advanced clean energy projects in this state.

1 (c) Any adjustments to the emissions profile implemented by
2 the legislature in response to a report required by this section
3 shall not apply to an application deemed administratively complete
4 on or before the date of the report.

5 SECTION 12. Not later than September 1, 2015, the State
6 Energy Conservation Office shall issue a report to the legislature
7 providing an assessment of whether the advanced clean energy
8 program should be extended due to a continued need for incentives to
9 ensure that a diverse range of affordable fuels, including lignite,
10 can be used in a manner that achieves the lowest emissions profile
11 that is technically and economically feasible.

12 SECTION 13. The State Energy Conservation Office shall
13 adopt rules to establish the advanced clean energy project grant
14 and loan program under Section 447.013, Government Code, as added
15 by this Act, not later than January 1, 2008. Such rules may allow
16 for the recovery of fees and administrative expenses.

17 SECTION 14. Not later than January 1, 2008, the Texas
18 Commission on Environmental Quality shall adopt rules required
19 under Section 382.0566, Health and Safety Code, and Section
20 11.31(k), Tax Code, as added by this Act, and Section 26.045(f), Tax
21 Code, as amended by this Act.

22 SECTION 15. Section 447.013(j), Government Code, as added
23 by this Act, takes effect only if the constitutional amendment
24 proposed by the 80th Legislature, Regular Session, 2007,
25 authorizing the issuance of general obligation bonds to provide and
26 guarantee loans to encourage clean energy projects is approved by
27 the voters. If that amendment is not approved by the voters,

1 Section 447.013(j), Government Code, as added by this Act, has no
2 effect.

3 SECTION 16. Except as otherwise provided by this Act, this
4 Act takes effect immediately if it receives a vote of two-thirds of
5 all the members elected to each house, as provided by Section 39,
6 Article III, Texas Constitution. If this Act does not receive the
7 vote necessary for immediate effect, this Act takes effect
8 September 1, 2007.

House Bill 3732
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Chapter 447, Government Code, is amended by adding Section 447.013 as follows:

Section 447.013. Establishes the *ultraclean* energy project grant and loan program administered by the state energy conservation office. Among other provisions, requires the Texas Public Finance Authority to issue *general obligation* bonds for the program as authorized by Section 49-p, Article III, Texas Constitution.

No equivalent provision.

SENATE VERSION

SECTION 1. Chapter 447, Government Code, is amended by adding Sections 447.013 and 447.014 as follows:

Section 447.013. Same as House version except establishes the *advanced* clean energy project grant and loan program and requires the Texas Public Finance Authority to issue bonds *in accordance with and subject to Chapter 1232, Government Code for the purposes* authorized by Section 49-q, Article III, Texas Constitution. Makes a technical correction.

Section 447.014. (a) Requires the State Energy Conservation Office to establish the hydrogen energy loan program to make an guarantee loans to business entities for projects that expand the use of carbon-free hydrogen energy in this state or relate to the manufacture, storage, distribution, or sale of carbon-free hydrogen energy in this state; (b) Requires the Texas Public Finance Authority to issue general obligation bonds in an aggregate amount not to exceed \$250 million as authorized by Section 49-p, Article III, Texas Constitution; (c) Authorizes the program to be funded by bond proceeds or gifts, grants, and donations; (d) Authorizes the comptroller to adopt rules to implement this section; (e) Provides that for purposes of this section, hydrogen is considered to be carbon-free if any carbon resulting from the production of the hydrogen is captured

CONFERENCE

SECTION 1. Same as House version.

Section 447.013. Same as Senate version except requires the Texas Public Finance Authority to issue *general obligation* bonds for the program as authorized by Section 49-p, Article III, Texas Constitution.

Same as House version.

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during production and permanently geologically sequestered or used in the production of other carbon-based products at a rate that exceeds 90 percent of the input and any carbon resulting from the generation of any electricity used in the production of the hydrogen is captured and permanently geologically sequestered or used in the production of other carbon-based products at a rate that exceed 90 percent of the input.; (f) Provides that for purposes of Subsection (e) the generation of wind power, solar power, hydroelectricity, geothermal electricity, tidal electricity, or nuclear power is considered to result in no carbon; and (g) Provides that hydrogen that is generated as a byproduct of the manufacturing of chlorine is considered carbon-free so long as it meets the criteria of Subsection (e).

SECTION 2. Section 382.003, Health and Safety Code, is amended by adding Subdivisions (3-a), (3-b), (11-a), and (12-a) as follows:

No equivalent provision.

SECTION 2. Section 382.003, Health and Safety Code, is amended by adding Subdivisions (1-a), (3-a), (7-a), and (11-a) as follows:

(1-a) "Advanced clean energy project" means a project for which an application for a permit under this chapter is received by the commission on or after January 1, 2008, and before January 1, 2020, and that: (A) involves the use of coal, biomass, petroleum coke, or solid waste, hydrogen derived from the manufacture of chlorine, coke, or other chemical and petrochemical production processes, hydrogen fuel cells powered by such fuels, or, in the generation of electricity, or the creation of liquid

SECTION 2. Same as Senate version except as follows:

Same as Senate version.

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fuels outside of the existing fuel production infrastructure while co-generating electricity; (B) is capable of achieving on an annual basis a 99 percent or greater reduction of sulfur dioxide emissions, a 95 percent or greater reduction of mercury emissions, and an emission rate for nitrogen oxides of 0.05 pounds or less per million British thermal units or of achieving the emissions profile required by rules adopted by the commission under Section 382.0566, if applicable; and (C) renders carbon dioxide capable of capture, sequestration, or abatement if any carbon dioxide is produced by the project.

(3-a) "Clean coal technology" means a technology or process, including a technology or process applied at the precombustion, combustion, or postcombustion stage, for use at a new or existing facility that will achieve a 97 percent reduction of sulfur dioxide emissions, an emission rate for nitrogen oxides of 0.08 pounds per million British thermal units, and significant reductions in mercury emissions associated with the use of coal in the generation of electricity, process steam, or industrial products, including the creation of liquid fuels, hydrogen for fuel cells, and other coproducts. The technology used must comply with applicable federal law regarding mercury emissions and must render carbon dioxide capable of capture, sequestration, or abatement. *Clean coal technology* includes atmospheric or pressurized fluidized bed combustion technology, integrated

(7-a) "*Federally qualified* clean coal technology" means a technology or process, including a technology or process applied at the precombustion, combustion, or postcombustion stage, for use at a new or existing facility that will achieve *on an annual basis* a 97 percent *or greater* reduction of sulfur dioxide emissions, an emission rate for nitrogen oxides of 0.08 pounds *or less* per million British thermal units, and significant reductions in mercury emissions associated with the use of coal in the generation of electricity, process steam, or industrial products, including the creation of liquid fuels, hydrogen for fuel cells, and other coproducts. The technology used must comply with applicable federal law regarding mercury emissions and must render carbon dioxide capable of capture, sequestration, or abatement. *Federally qualified clean coal technology* includes

Same as Senate version.

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gasification combined cycle technology, methanation technology, magnetohydrodynamic technology, direct and indirect coal-fired turbines, undiluted high-flame temperature oxygen combustion technology that excludes air, and integrated gasification fuel cells.

(3-b) and (11-a)

(12-a) "Ultraclean energy project" means a project that: (A) involves the use of coal, biomass, petroleum coke, or solid waste in the generation of electricity, process steam, or industrial products, including gasification and the creation of liquid fuels, hydrogen for fuel cells, and other coproducts; (B) is capable of achieving a 99 percent reduction of sulfur dioxide emissions, a 95 percent reduction of mercury emissions, and an emission rate for nitrogen oxides of 0.05 pounds per million British thermal units; and (C) renders carbon dioxide capable of capture, sequestration, or abatement.

No equivalent provision.

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atmospheric or pressurized fluidized bed combustion technology, integrated gasification combined cycle technology, methanation technology, magnetohydrodynamic technology, direct and indirect coal-fired turbines, undiluted high-flame temperature oxygen combustion technology that excludes air, and integrated gasification fuel cells.

(3-a) and (11-a) Same as House version.

No equivalent provision.

SECTION __. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Section 382.0174, EMISSION REDUCTION STRATEGIES FOR GREENHOUSE GASES. (a) Provides that in this section, "greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. (b) Not later

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Same as House version.

Same as Senate version.

Same as House version.

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than October 31, 2008, the commission shall prepare and deliver to each member of the legislature a report including a list of strategies for reducing emissions of greenhouse gases in this state that: (1) may result in net savings for consumers or businesses in this state; or (2) can be achieved without financial cost to consumers or businesses in this state. (c) In preparing the list of emission reduction strategies, the commission shall consider the strategies for reducing the emissions of greenhouse gases that have been implemented in other states or nations. (d) In determining under Subsection (b) whether an emission reduction strategy may result in a financial cost to consumers or businesses in this state, the commission shall consider the total net costs that may occur over the life of the strategy, as opposed to the short-term capital costs that may result from the implementation of the strategy. (e) The commission may appoint advisory committees to assist the commission in identifying and evaluating greenhouse gas emission reduction strategies.

No equivalent provision.

SECTION __. Section 382.0518, Health and Safety Code, is amended by adding Subsection (c-1) to provide that in considering the issuance of a permit for a new electric generating facility, the commission shall analyze and consider: (1) the cumulative effects of the facility's expected emissions together with the cumulative effects of the authorized emissions from all sources of pollution permitted under this section, as well as all sources of

Same as House version.

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SECTION 3. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Section 382.0566 as follows:

Sec. 382.0566. *ULTRACLEAN* ENERGY PROJECT PERMITTING PROCEDURE.

(a) An application for a permit under this chapter for an ultraclean energy project must be received by the commission on or after January 1, 2008, and before January 1, 2020.

(b) - (d)

No equivalent provision.

(e) An applicant for a permit under this chapter for an

pollution from electric generating facility applications determined to be technically complete, that are located within a radius of impact specified by commission rule, or 200 km, whichever is greater; and (2) whether the emissions from the facility will cause an area to be designated a nonattainment area; or (3) whether the emissions from the facility will negatively affect compliance with the state implementation plan.

SECTION 4. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Sections 382.0566 and 382.0567 to read as follows:

Sec. 382.0566. *ADVANCED* CLEAN ENERGY PROJECT PERMITTING PROCEDURE.

No equivalent provision.

(a) - (c) Same as House version.

(☐) The commission shall not issue a permit under this chapter for an advanced clean energy project if emissions from the proposed facility will cause an area to be designated a nonattainment area.

Sec. 382.0567. PROOF THAT TECHNOLOGY IS

SECTION 3. Same as Senate version.

Same as Senate version.

Same as Senate version.

Same as Senate version.

(d) The commission shall adopt rules to implement this section.

Same as Senate version except adds Subsection (b) as

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ultraclean energy project is not required to prove, as part of an analysis of whether the project will use the best available control technology or reduce emissions to the lowest achievable rate, that the *clean coal technology or ultraclean energy technology* proposed to be used *in connection with the project* has been demonstrated to be feasible in a commercial operation.

(f)

No equivalent provision.

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COMMERCIALLY FEASIBLE NOT REQUIRED. An applicant for a permit under this chapter for *a project in connection with which advanced clean energy technology, federally qualified clean coal technology, or another technology is proposed to be used* is not required to prove, as part of an analysis of whether the project will use the best available control technology or reduce emissions to the lowest achievable rate, that the technology proposed to be used has been demonstrated to be feasible in a commercial operation.

(d) Same as House version.

(e) Not later than September 1 of the years 2010, 2012, 2014, 2016, and 2018, the commission shall: (1) determine whether any element of the emissions profile specified by Section 382.003(1-a)(B) should be increased or decreased; (2) determine whether any other regulated pollutant should be added to the emissions profile; and (3) adopt rules adjusting the profile if the commission determines an adjustment to be appropriate.

(f) The factors the commission must consider under Subsection (e) in determining whether the emissions profile should be adjusted include: (1) the technical and economic feasibility of achieving all of the elements of the emissions profile in a commercially viable project, as documented by the United States Department of Energy; (2) the technical and economic feasibility of projects to achieve all of the elements of the emissions profile and

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follows:

(b) The commission may not consider any technology or level of emission reduction to be achievable for purposes of a best available control technology analysis or lowest achievable emission rate analysis conducted by the commission under another provision of this chapter solely because the technology is used or the emission reduction is achieved by a facility receiving an incentive as an advanced clean energy project.

Same as House version.

Same as House version.

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still use a diverse range of fuels, including lignite; and
(3) the adequacy of the incentives provided by this section, Section 447.013, Government Code, and Sections 11.31, 26.045, 182.022, 182.122, 202.0545, and 313.024, Tax Code, to continue to attract investment in and federal funding for advanced clean energy projects in this state.

(g) Any adjustment to the emissions profile that is adopted by commission rule under Subsection (e) applies only to an application that the executive director has not declared to be administratively complete as of the date the rule is adopted.

(h) The commission may not consider any technology or level of emission reduction to be adequately demonstrated or achievable for purposes of a best available control technology analysis or lowest achievable emission rate analysis conducted by the commission under another provision of this chapter solely because the technology is used or the emission reduction is achieved by a facility receiving an incentive under a law listed in Subsection (f)(3).

SECTION 4. Section 11.31, Tax Code, is amended by amending Subsection (b) and adding Subsections (k), (l), and (m) as follows:

(b) In this section, "facility, device, or method for the control of air, water, or land pollution" means land that is acquired after January 1, 1994, or any structure, building,

SECTION 5. Section 11.31, Tax Code, is amended by adding Subsections (k), (l), and (m) as follows:

No equivalent provision.

SECTION 4. Same as Senate version.

Same as Senate version.

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installation, excavation, machinery, equipment, or device, and any attachment or addition to or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution. Whether or not carbon dioxide is considered a pollutant, the term includes property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source that is used in an enhanced recovery project for which a producer of oil receives a severance tax exemption under Section 202.0545, or that is geologically sequestered. This section does not apply to a motor vehicle.

(k) The Texas Commission on Environmental Quality shall adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution. Among other requirements, the list must include the following:

- (1) coal cleaning facilities;
- (16) any other equipment designed to capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, carbon dioxide, or any criteria pollutant.

Same as House version except the list must include:

- (1) coal cleaning *or refining* facilities
- (16) *if the United States Environmental Protection Agency or the Texas Commission on Environmental Quality adopts a final rule or regulation regulating carbon dioxide as a pollutant, property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source that is used in an enhanced recovery project in this state or that is geologically sequestered in this state;*
- (17) fuel cells generating electricity using hydrocarbons

Same as Senate version except as follows:

- (16) *if the United States Environmental Protection Agency adopts a final rule or regulation regulating carbon dioxide as a pollutant, property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source in this state that is geologically sequestered in this state;*
- (17) fuel cells generating electricity using hydrogen

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or hydrogen without combustion; and
(18) any other equipment designed to *prevent*, capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, or any criteria pollutant.

derived from coal, biomass, petroleum coke, or solid waste; and

(l) The Texas Commission on Environmental Quality by rule shall update the list adopted under Subsection (k) at least once every three years. An item *may not* be removed from the list *unless* the commission finds compelling evidence to support the conclusion that the item does not provide pollution control benefits.

Same as House version except an item *may* be removed from the list *if* the commission finds compelling evidence to support the conclusion that the item does not provide pollution control benefits.

Same as Senate version.

(m)

Same as House version.

Same as House version.

SECTION 5. Section 26.045, Tax Code, is amended as follows:

Same as House version except as follows:

SECTION 5. Same as House version except as follows:

(a) - (e)

Same as House version.

Same as House version.

(f) The Texas Commission on Environmental Quality shall adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution. Among other requirements, the list must include the following:

Same as House version except the list must include:

Same as Senate version except as follows:

(1) coal cleaning facilities;

(1) coal cleaning *or refining* facilities

(16) any other equipment designed to capture, abate, or monitor nitrogen oxides, volatile organic compounds,

(16) if the United States Environmental Protection Agency or the Texas Commission on Environmental Quality adopts a final rule or regulation regulating carbon dioxide as a pollutant, property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source

(16) if the United States Environmental Protection Agency adopts a final rule or regulation regulating carbon dioxide as a pollutant, property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source in this state that is geologically sequestered in this state;

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particulate matter, mercury, carbon monoxide, *carbon dioxide*, or any criteria pollutant.

(g) The Texas Commission on Environmental Quality by rule shall update the list adopted under Subsection (k) at least once every three years. An item *may not* be removed from the list *unless* the commission finds compelling evidence to support the conclusion that the item does not provide pollution control benefits.

(h) - (i)

SECTIONS 6-8.

SECTION 9. Subchapter B, Chapter 202, Tax Code, is amended by adding Section 202.0545 as follows:

(a) Subject to the limitations provided by this section, the producer of oil recovered through an enhanced oil recovery project that qualifies under Section 202.054 for the recovered oil tax rate provided by Section 202.052(b) is entitled to an additional 50 percent reduction in that

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that is used in an enhanced recovery project in this state or that is geologically sequestered in this state;
(17) *fuel cells generating electricity using hydrocarbons or hydrogen without combustion; and*
(18) any other equipment designed to *prevent*, capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, or any criteria pollutant.

Same as House version except an item *may* be removed from the list *if* the commission finds compelling evidence to support the conclusion that the item does not provide pollution control benefits.

Same as House version.

SECTIONS 7-9. Same as House version except makes a conforming change.

SECTION 10. Same as House version except as follows:

(a) *Until the United States Environmental Protection Agency or the Texas Commission on Environmental Quality adopts a final rule or regulation regulating carbon dioxide as a pollutant and* subject to the limitations provided by this section, the producer of oil

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(17) *fuel cells generating electricity using hydrogen derived from coal, biomass, petroleum coke, or solid waste; and*

Same as Senate version.

Same as House version.

SECTIONS 6-8. Same as Senate version.

SECTION 9. Same as House version except as follows:

(a) Subject to the limitations provided by this section, *until the later of the seventh anniversary of the date that the comptroller first approves an application for a tax rate reduction under this section or the effective date of a final rule adopted by the United States Environmental*

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tax rate if in the recovery of the oil the enhanced oil recovery project uses carbon dioxide that:

- (1) is captured from an anthropogenic source;
- (2) would otherwise be released into the atmosphere as industrial *emission*;
- (3) is measurable at the source of capture; and
- (4) is sequestered in one or more geological formations following the enhanced oil recovery process.

(c)-(d) To qualify for the tax rate reduction under this section, the operator must apply to the comptroller for the reduction and include with the application any information and documentation that the comptroller may require. To qualify for the tax rate reduction under this section, the operator must apply for a certification from:

- (1) the Railroad Commission of Texas, if carbon dioxide used in the project is to be sequestered in a reservoir productive of oil or natural gas;
- (2) the Texas Commission on Environmental Quality, if carbon dioxide used in the project is to be sequestered in a geological formation other than a reservoir productive of oil or natural gas; or
- (3) both the Railroad Commission of Texas and the Texas Commission on Environmental Quality if both Subdivisions (1) and (2) apply.

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recovered through an enhanced oil recovery project that qualifies under Section 202.054 for the recovered oil tax rate provided by Section 202.052(b) is entitled to an additional 50 percent reduction in that tax rate if in the recovery of the oil the enhanced oil recovery project uses carbon dioxide that:

- (1) is captured from an anthropogenic source *in this state*;
- (2) would otherwise be released into the atmosphere as industrial *emissions*;
- (3) is measurable at the source of capture; and
- (4) is sequestered in one or more geological formations *in this state* following the enhanced oil recovery process.

(c) Substantially the same as House version.

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Protection Agency regulating carbon dioxide as a pollutant, the producer of oil recovered through an enhanced oil recovery project that qualifies under Section 202.054 for the recovered oil tax rate provided by Section 202.052(b) is entitled to an additional 50 percent reduction in that tax rate if in the recovery of the oil the enhanced oil recovery project uses carbon dioxide that:

- (1) - (4) Same as Senate version.

Same as Senate version.

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(e), (e-1), (f), (g)	(d), (e), (f), (g) Same as House version.	Same as House version.
(h)-(i) The comptroller may <i>enact</i> rules and establish procedures to implement and administer this section. (i) The Railroad Commission of Texas may <i>enact</i> rules and establish procedures to implement and administer this section. (j) The Texas Commission on Environmental Quality may <i>enact</i> rules and establish procedures to implement and administer this section.	(h) Substantially the same as House version except authorizes the three entities to <i>adopt</i> rules.	Same as Senate version.
SECTION 10. Section 313.024(b), Tax Code, as effective January 1, 2008, is amended.	SECTION 11. Same as House version except makes a conforming change.	SECTION 10. Same as Senate version.
SECTION 11. (a) Not later than September 1, 2012, and September 1, 2016, the Texas Commission on Environmental Quality and the State Energy Conservation Office shall issue a joint report to the legislature providing a status update on the implementation of the ultraclean energy program and an assessment of whether the emissions profile set out in Section 382.003(12-a)(B), Health and Safety Code, as added by this Act, should be adjusted to increase or decrease elements of the emissions profile. (b) Factors to be considered in the assessment of the emissions profile shall include: (1) the technical and economic feasibility of meeting all of the elements of the emissions profile in a	No equivalent provision.	SECTION 11. Same as House version.

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commercially viable project, as documented by the United States Department of Energy;

(2) the technical and economic feasibility of projects to meet all of the elements of the emissions profile and still use a diverse range of fuels, including lignite; and

(3) the adequacy of the incentives provided by this Act to continue to attract investment in and federal funding for ultraclean energy projects in this state.

(c) Any adjustments to the emissions profile implemented by the legislature in response to a report required by this section shall not apply to an application deemed administratively complete on or before the date of the report.

SECTION 11. (d) Not later than September 1, 2020, the State Energy Conservation Office shall issue a report to the legislature providing an assessment of whether the ultraclean energy program should be extended due to a continued need for incentives to ensure that a diverse range of affordable fuels, including lignite, can be utilized in a manner that achieves the lowest emission profile that is technically and economically feasible.

SECTION 12. The state energy conservation office shall promulgate rules to establish the ultraclean energy grant and loan program under Section 447.013, Government Code, as added by this Act, not later than January 1, 2008.

SECTION 12. Substantially the same as House version except the deadline for the report is September 1, 2015. Makes a conforming change.

SECTION 13. Same as House version except rules are adopted, rather than promulgated. Adds provisions authorizing the rules to allow for the recovery of fees and administrative expenses and requiring the program under Section 447.014, Government Code, as added by this Act, to be established not later than January 1, 2008.

SECTION 12. Same as Senate version.

SECTION 13. Same as House version except omits provision relating to Section 447.014, Government Code.

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Makes conforming changes.

No equivalent provision.

SECTION ____ SELECTIVE CATALYTIC
REDUCTION TECHNOLOGY OR LOW
TEMPERATURE OXIDATION TECHNOLOGY
PILOT. (a) The Texas Commission on Environmental
Quality shall select one cement kiln stack in a
nonattainment or a near nonattainment area for the
purpose of a pilot test to determine the effectiveness of a
selective catalytic reduction technology or a low
temperature oxidation technology as an advanced control
technology for reducing the nitrogen oxides emissions
from the cement kiln stack. The Texas Commission on
Environmental Quality shall select a selective catalytic
reduction technology or a low temperature oxidation
technology vendor to provide the selective catalytic
reduction technology or low temperature oxidation
technology needed to conduct the testing required by this
subsection.
(b) The Texas Commission on Environmental Quality
shall: (1) conduct a feasibility study, design, supervise,
and monitor the testing required by Subsection (a) of this
section in consultation with: (A) the selective catalytic
reduction technology or low temperature oxidation
technology vendor selected by the commission; (B) the
owner or operator of the cement kiln stack selected for
testing under Subsection (a) of this section; (C)
representatives of a regional council of government of

Same as House version.

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the region in which the cement kiln is located; and (D) a representative of a citizen environmental advocacy group active within the region; and (2) verify the accuracy of the results of the testing.

(c) The Texas Commission on Environmental Quality may accept and hold a gift or grant conditioned on its use for testing advanced controls for nitrogen oxides emissions from cement kilns in a nonattainment or near nonattainment area and use such gifts or grants without an appropriation for the pilot test under this section.

(d) The Texas Commission on Environmental Quality shall: (1) not later than December 31, 2008, complete the selective catalytic reduction technology or low temperature oxidation technology testing required under Subsection (a) of this section; and (2) not later than January 1, 2009, prepare and deliver to each member of the legislature a report describing: (A) the results of the testing, including whether any reduction in nitrogen oxides emissions resulted from the use of the selective catalytic reduction technology or low temperature oxidation technology; and (B) the costs involved in the installation, use, and maintenance of the selective catalytic reduction technology or low temperature oxidation technology.

No equivalent provision.

SECTION 14. Section 382.0518(c-1), Health and Safety Code, as added by this Act, applies only to an application for a permit under Section 382.0518, Health and Safety Code, that is received by the Texas Commission on

Same as House version.

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Environmental Quality on or after January 1, 2008.

SECTION 13. Not later than January 1, 2008, the Texas Commission on Environmental Quality shall adopt rules required under Section 382.0566, Health and Safety Code, and Section 11.31(k), Tax Code, as added by this Act, and Section 26.045(f), Tax Code, as amended by this Act.

SECTION 15. Same as House version.

SECTION 14. Same as House version.

SECTION 14. Section 447.013(j), Government Code, as added by this Act, takes effect only if the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the issuance of general obligation bonds to provide and guarantee loans to encourage *the use of carbon-free hydrogen energy* is approved by the voters. If that amendment is not approved by the voters, Section 447.013(j), Government Code, as added by this Act, has no effect.

SECTION 16. Same as House version except the loans are to encourage *clean energy projects*. Also provides that Section 447.014, Government Code, as added by this Act, takes effect only if the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the issuance of general obligation bonds to provide and guarantee loans to encourage the use of carbon-free hydrogen energy, is approved by the voters. If that amendment is not approved by the voters, Section 447.014, Government Code, has no effect.

SECTION 15. Same as House version except omits provision relating to Section 447.014, Government Code.

SECTION 15. The amendment made by this Act to Section 11.31(b), Tax Code, takes effect January 1, 2008.

No equivalent provision.

Same as Senate version.

SECTION 16. Effective date.

SECTION 17. Same as House version.

SECTION 16. Same as House version.